

OPERATING AGREEMENT
FOR WOODS TENNIS CENTER

This Operating Agreement ("Operating Agreement") is made and effective as of the date of execution of the last signing party by and between the **CITY OF LINCOLN, NEBRASKA ("CITY")**, a municipal corporation and political subdivision of the State of Nebraska, and **FRIENDS OF WOODS TENNIS, INC. ("FOWT")**, 401 S. 33rd Street, Lincoln, Nebraska, 68510, a nonprofit corporation.

WHEREAS, CITY is the owner of Woods Park, located generally west of 33rd Street, south of "O" Street and north of "J" Street, in Lincoln, Lancaster County, Nebraska; and

WHEREAS, the nonprofit corporation FOWT has operated the Woods Tennis Center on a portion of the aforementioned park property;

WHEREAS, CITY and FOWT have entered into numerous operating agreements, approved by Directorial Order No. 16341 on December 27, 2016; Directorial Order No. 14520 on February 4, 2016; Directorial Order No. 14459 on December 28, 2015; Ordinance No. 18569 on June 27, 2005 for a ten (10) year term from 2005 to 2015; and various Executive Orders prior to that date; for the operation of the Tennis Center by FOWT;

WHEREAS, FOWT, through its predecessor Woods Park Tennis Corporation, previously provided two air structures covering six existing tennis courts. The existing air structures have been replaced in 2017 with a permanent structure indoor tennis facility consisting of a permanent steel beam, insulated structure with improved lighting indoor tennis facility to house six (6) indoor tennis courts, storage, staff offices, mezzanine and court-level viewing spaces, restrooms, locker rooms and showers, and other improvements, as shown on the facilities drawings in Exhibit "A", and including the proposed second phase of improvements as approved in the Woods Park Master Plan revised in December 2016 by Resolution No. A-90131 as shown on Exhibit "B", which exhibits are attached hereto and incorporated herein by this reference as though set forth in full, all of which is hereinafter referred to as the "Indoor Tennis Facility." The Indoor Tennis Facility, as it is referred to throughout this Agreement, shall not include the exterior tennis courts or other exterior improvements adjacent to the Indoor Tennis Facility except for those obligations separately provided for herein. The complex of indoor and outdoor courts and the clubhouse, including the Indoor Tennis Facility as depicted on Exhibit "C", are referred to as the "Tennis Center";

WHEREAS, CITY and FOWT have continued a successful public-private partnership for the betterment of the community through recreational tennis activities for athletes, families and youth as well as tennis tournaments that bring visitors to Lincoln;

WHEREAS, CITY and FOWT wish to enter into a new agreement to memorialize the parties' agreement for the operation of the Tennis Center for the benefit of the community, under the terms, conditions and contingencies hereinafter set forth herein;

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. USE OF THE PROPERTY. CITY and FOWT acknowledge and agree that CITY recently constructed and owns a permanent steel beam, insulated structure with improved lighting indoor tennis facility to house six (6) indoor tennis courts, storage, staff offices, mezzanine and court-level viewing spaces, restrooms, locker rooms and showers, and other improvements for continued operation of the Indoor Tennis Facility as shown on Exhibit "A". FOWT shall operate the Tennis Center consistent with the terms herein. The Indoor Tennis Facility shall be used by FOWT for the operation of comprehensive indoor tennis programming. FOWT shall also be permitted to operate classes or events on the twelve (12) exterior courts located adjacent to the Indoor Tennis Facility and on other CITY-owned outdoor tennis courts city-wide.

2. TERM. The term of this Operating Agreement shall commence upon execution and shall continue for a period of ten (10) years. CITY and FOWT may mutually agree to renew this Operating Agreement for additional ten (10) year terms, subject to mutually agreed upon revisions on the compensation, maintenance, nuisance, land use, or other issues that reflect any changed conditions or practices. CITY and FOWT have the option to negotiate and enter into a separate Lease Agreement anytime throughout the term of this Operating Agreement, subject to mutually agreed upon terms, including the lease payments, capital improvements, and maintenance of the Tennis Center. CITY has the right to terminate this Operating Agreement if FOWT shall at any time be in default in the performance of any of the other covenants, terms, conditions or provisions herein in accordance with the Default and Waiver section herein. The parties may also mutually agree to terminate the Operating Agreement. Upon termination of this Operating Agreement, whether prior to the end of the term due to breach, at the expiration of the original term, or at the end of any extended term thereof by mutual agreement of the parties, a multitude of issues will be involved, some of which are unknown at this time. The parties agree to adopt a termination and winding up plan to deal with all of the issues relative to the termination of the Operating Agreement. The parties shall also meet and confer every five (5) years to discuss any maintenance, nuisance, land use, or other issues that may arise and to mutually work to revise the Operating Agreement to reflect any changed conditions or currently adopted practices, which changes shall be subject to the Integration and Amendment section herein.

3. COMPENSATION. FOWT shall pay to CITY a facility use fee equal to five percent (5%) of FOWT's gross revenues from the operations at the Tennis Center (except for revenues from gifts, grants, and donations, and revenues from Parks and Recreation and CLC programs), including concessions, payable in quarterly payments for periods ending March 31, June 30, September 30, and December 31. Said payments are due forty-five (45) days after the end of each period and are to be accompanied by the "Total Sales from City Operations" statement of FOWT's quarterly "Statement of Income and Retained Earnings," a report completed by FOWT's accountants. FOWT shall issue an annual financial report for the purpose of showing gross receipts, taxes, financial accounts, and percent and total facility use fee owed to the CITY. Such financial report shall be issued on or before March 31 to be reviewed by the Finance Director and Parks and Recreation Director. In addition, CITY shall at all reasonable times be permitted to inspect the financial records of FOWT as they pertain to this operation. CITY agrees to place all revenue derived from this Operating Agreement in the Woods Park Tennis Capital Improvement Fund ("TF" for Tennis Fund) to be used by CITY, in consultation

with FOWT, for future major repair and replacement of capital improvements to the Tennis Center, pursuant to Repair and Replacement section of this Operating Agreement. FOWT and CITY shall meet and confer every five (5) years from the effective date of this Operating Agreement regarding the compensation amount or rate to CITY from FOWT's gross revenues, to update the compensation to current standards used by CITY or to the foreseeable economic conditions existing at that time. The CITY shall provide a report regarding the balance of funds in the TF upon request by FOWT.

4. FEES, REVENUES, DONATIONS. FOWT shall have the right to charge admission fees to the Tennis Center and rentals for group use of the facilities and shall have the right to operate concessions therein for the sale of refreshments, curios, and other merchandise ordinarily available at similar sports facilities, subject to the issuance of any required permits. All admissions and rental rates shall be charged in accordance with a schedule of fees to be adopted and approved as follows: FOWT shall submit to the Director of Parks and Recreation proposed fees for the Tennis Center which shall be reviewed by the Director and be approved in writing by the Mayor by Executive Order. Such fees shall be subject to revision at any time upon written request of FOWT to the Director and with the approval of the Mayor as herein provided. The parties agree that the Tennis Center shall be open to the public at competitive rates consistent with those charged at similar facilities in the region. A schedule of all fees shall be posted at all times in a conspicuous place at the Tennis Center. FOWT shall continue its donation of free exterior court use to neighbors and continue its scholarship program to provide free lessons to children and families who may not have the financial means to utilize the Tennis Center. This shall be accomplished either through its current programs or other similar programs. All revenues derived by FOWT or donations to FOWT of money and materials shall be devoted by FOWT to the operation, improvement, maintenance, equipping of the Tennis Center, and tennis in Lincoln unless the parties otherwise agree.

5. MANNER OF OPERATION AND ROUTINE MAINTENANCE. FOWT shall assume the responsibility and obligation to conduct, operate, and perform routine maintenance of the Tennis Center in a prudent and efficient manner. CITY will make available other outdoor public tennis courts in parks city-wide where group or private lessons or clinics may be scheduled at no cost to FOWT. FOWT shall be responsible for all operations of the Tennis Center year-round. FOWT shall place persons duly qualified to operate the Tennis Center in charge at all times it is open for public use, with the exception of the exterior courts, which shall be closed and locked by FOWT overnight, but may be left unlocked and available for open play on weekends during summer months and at other times as mutually agreed upon by the parties. FOWT shall furnish its own labor, materials, supplies and assistance and pay all its own costs required in the operation of the Indoor Tennis Facility, including any routine maintenance and utilities. FOWT shall, at its sole cost, but limited to a maximum amount of Three Thousand Dollars (\$3,000.00) per year for the first five (5) years of this Agreement, perform routine maintenance on the exterior tennis courts to keep them in clean and safe operating condition. After the first five (5) years of this Agreement, if such routine maintenance costs on the exterior courts are expected to exceed \$3,000.00 in any one year, then CITY and FOWT will meet and discuss such costs and to allow for potential CITY cost assistance on any unexpected work or excessive costs. City shall be responsible for timely providing the equipment, labor, and replacement bulbs for changing bulbs that light the exterior courts. FOWT shall be solely responsible for routine maintenance of the Indoor Tennis Facility to keep the property in a clean,

safe condition comparable with the remainder of Woods Park. FOWT agrees not to make or suffer any waste or to make or suffer any unlawful improper or offensive use of the Tennis Center, or any use thereof other than is herein specifically permitted.

FOWT shall not be responsible for the resurfacing or repairing of any of the exterior tennis courts, nor shall it be responsible for the repairing or replacing of any fencing or exterior lighting, currently located on the property. Funding for the aforementioned shall be provided through CITY funding from funding sources to the Parks and Recreation Capital Improvement Program (CIP) and other funding sources. The parties agree that the tennis courts need to be resurfaced every five (5) to eight (8) years. The parties further agree that filling of surface cracks on the tennis courts is required yearly, and FOWT shall furnish the crack-sealing materials and labor, for which it shall receive payment not to exceed \$3,000 per year from the TF upon presentation of a valid invoice or receipt. However, if through the actions of FOWT, or its agents, damage to or destruction of the surfaces, fencing or lighting occurs, then FOWT shall be responsible for any necessary repairs or resurfacing.

6. REPAIR AND REPLACEMENT. FOWT shall pay all expenses associated with routine repairs and replacement of plumbing, mechanical and lighting systems (e.g., repair of leaking faucets, replacement of light bulbs, replacement of HVAC system filters, regular servicing of HVAC systems) of the Indoor Tennis Facility. CITY and FOWT shall meet annually to review the condition of the Tennis Center and to determine that nature and timing of major capital repair and replacement projects, including funding cooperation by the parties for those events in which the project is expected to exceed the funding sources described in this section. CITY and FOWT will also discuss routine maintenance obligations of FOWT for the exterior courts at said annual meeting to ensure FOWT's anticipated expenses are reasonable. It is anticipated that major capital repair and replacement costs associated with the Indoor Tennis Facility will be funded using the proceeds of the Tennis Center Endowment Fund held and managed by the Lincoln Parks Foundation as well as the TF as described in the Compensation section herein. City shall be responsible for major capital repair and replacement projects of the Tennis Center, including replacement of the exterior courts using funding by the City, funding sources of the Parks and Recreation Capital Improvement Program (CIP), and the TF. Examples of major capital repair and replacement projects include but are not limited to resurfacing of tennis courts, repair and replacement of court fencing, repair and replacement of court lighting.

7. REQUIREMENTS OF LAW. FOWT shall apply for and obtain any and all necessary permits, certifications, licenses, variances, and approvals required by any applicable law or regulations that relate to the operation and maintenance of the Tennis Center. FOWT shall, at its expense, observe and comply, and operate the Tennis Center strictly in compliance with all applicable present and future laws, ordinances, requirements, orders, directions, codes, rules and regulations of regulations of the CITY, the State of Nebraska, and the United States, and all other governmental authorities having jurisdiction over the Tennis Center, including, but not limited to zoning, parking, the federal Occupational Safety and Health Act, the Americans with Disabilities Act, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act, Land Water Conservation Fund Act, CITY and federal flood regulations, alcohol rules and regulations for special designated licenses, or other applicable federal, state and local requirements pertaining to FOWT's use of the Tennis Center, whether the same are in force at the commencement of this Operating Agreement or may in the future be passed, enacted or

directed. FOWT shall take appropriate action to ensure that users of the Tennis Center act in compliance with the laws, ordinances, rules and regulations of the CITY and the State of Nebraska now and hereafter in effect during the term of this Operating Agreement. It is understood and agreed that the Tennis Center shall be operated in accordance with operational standards established by the industry.

8. LAND AND WATER CONSERVATION FUND COMPLIANCE. This Operating Agreement is contingent upon CITY obtaining all necessary approvals under state law, municipal ordinances, or any other laws applicable prior to its effectiveness, including, but not limited to, approval by the Lincoln City Council, and by the Nebraska Game and Parks Commission and the National Park Service that Land and Water Conservation Funds do not restrict the proposed uses herein. FOWT and CITY acknowledge that Land and Water Conservation Funds ("LWCF") under the Federal Land and Water Conservation Fund Act of 1965, 16 U.S.C. §§ 4601, et seq., as amended, were used to assist with development of Woods Park in the past. FOWT and CITY shall cooperate to assure that the Tennis Center remains reasonably open and accessible to the general public and that the uses are in compliance with the federal statutes and regulations in place or as may be amended from time to time, including maintaining the Tennis Center to appear attractive and inviting to the public, maintaining sanitation facilities in accordance with applicable health standards, and maintaining proper public safety. As otherwise provided in other sections herein, CITY shall periodically review performance of FOWT to ensure compliance with the standards required by LWCF. City shall sign and identify the Tennis Center as publicly owned and operated as a public recreation area.

9. RULES AND REGULATIONS. All rules and regulations proposed by FOWT pertaining to the occupancy and use of the Tennis Center shall be submitted in writing to the Director of Parks and Recreation for its review and approval prior to adoption. The Director of Parks and Recreation shall then review the proposed rules and provide a written response to FOWT within thirty (30) days from the receipt of the rules. If no response is received by FOWT within thirty (30) days after its filing of the rules with the Director of Parks and Recreation, Director approval shall be presumed. If the Director does not approve the rules, the Director and FOWT shall meet and confer in an attempt to resolve their differences for a period not to exceed thirty (30) days after receipt of the written objections of the Director. If the Director and FOWT cannot agree on the rules within the thirty (30) day meet and confer period, then the matter shall be submitted to the Mayor who shall determine which rules and regulations, if any, are approved.

10. JANITORIAL SERVICES, TRASH REMOVAL, SNOW REMOVAL, LANDSCAPING, AND PEST CONTROL. FOWT will be responsible for all routine cleaning and janitorial services at the Tennis Center, for arranging and for coordinating all trash removal services at the Tennis Center, and for obtaining all necessary pest control services. FOWT shall be responsible for seeing that all papers, rubbish, empty containers, garbage and other trash accumulated in the Indoor Tennis Facility, exterior tennis courts, and surrounding exterior property are to be picked up and placed in suitable trash and garbage containers. CITY shall be responsible for emptying garbage and trash containers in a dumpster and shall pay for the dumpster. CITY shall be responsible for maintaining the plaza, landscape plantings, site furniture and "Summer Showers" sculpture between Woods Memorial Pool / Spray Ground and the Tennis Center, for the pool and its surrounding exterior property, and for the baseball field and its surrounding exterior property. CITY shall be responsible for removal of snow from the

parking lots. FOWT shall be responsible for clearing snow from the walk providing access from the east parking lot to the Tennis Center. CITY, with assistance from FOWT, shall install windscreens on the exterior courts each spring and remove windscreens each fall and place into storage. FOWT will be responsible for routine maintenance of windscreens while they are in place seasonally, including replacement of breakaway ties. CITY will use funds in the TF for expenses to replace nets and windscreens.

11. UTILITIES. FOWT shall be responsible for obtaining and paying for all utilities including, but not limited to, gas, electricity, water, sewer, telephone, cable, data, and any and all other utilities required to operate the Tennis Center, including any connection charges associated therewith. If separate metering is required, CITY and FOWT will share any cost equally for installation of such metering. FOWT shall have no responsibility to paying utilities required to operate either the swimming pool or the baseball field.

12. HOURS OF OPERATION. FOWT shall submit to the Director of Parks and Recreation proposed change of hours of operation for the Tennis Center which shall be reviewed by the Director. The current hours of operation for the Tennis Center are approved by CITY. Hours of operation shall be subject to revision at any time upon written request of FOWT to the Director and with the approval of the Mayor as herein provided.

13. TITLE TO PROPERTY. Upon dissolution of FOWT, termination of this Operating Agreement, or if the FOWT shall cease operation of the Tennis Center, in the event the parties cannot mutually agree to an assignment of the operations and lease to another nonprofit organization, title to all property acquired by FOWT for use in the operation of the Tennis Center, including, but not limited to all structures, books, corporate records, and equipment, subject to the Nebraska Nonprofit Corporation Act, shall remain vested in FOWT.

14. CITY EVENTS. CITY will have use of the Tennis Center without charge for up to two (2) City Events per year. For purposes of this section, the term "City Events" shall be limited to those meetings or gatherings conducted by CITY and limited to private events, not open to the general public, for which CITY requests usage of the Tennis Center, not including the indoor courts. City Events shall further exclude fundraising events for third party entities or any political functions. The scheduling of City Events shall be scheduled upon mutual cooperation and agreement by the parties, with FOWT having first priority. CITY shall hold FOWT harmless from and defend FOWT from and against any and all claims arising out of City Events, except for the negligence or intentional misconduct of FOWT. FOWT may establish lawful and reasonable rules and regulations for City Events held or occurring at the Tennis Center. For any City Event, City will be liable and responsible for the cleanup and repairs to the Tennis Center. City will pay to FOWT the direct cost without any profit for the FOWT to provide clean up to the extent requested in advance.

15. SIGNAGE. FOWT shall submit to CITY for its review and approval all permanent signage proposed to be erected, placed, or maintained by FOWT on the exterior of or adjacent to the Tennis Center. All current signs are approved by CITY. FOWT may (a) keep and maintain all approved or those signs already erected at the time of execution of this Operating Agreement throughout the term, and (b) replace any or all approved signs with new signs of similar content when such replacement is warranted in FOWT's sole discretion, provided FOWT

shall not erect, install, or replace any approved sign in violation of any applicable law, ordinance, rule or regulation of CITY or any other governmental agency. Any signs shall fully comply with Chapters 22 and 27 of the Lincoln Municipal Code relating to signs.

16. ENDOWMENT. This Operating Agreement is contingent upon FOWT in cooperation with the Lincoln Parks and Recreation Foundation ("Parks Foundation") establishing an endowment to be used exclusively for the Indoor Tennis Facility's future capital improvements and ongoing maintenance and repairs. FOWT, through its fiscal agent the Parks Foundation, has established an endowment in the amount of Five Hundred Thousand Dollars (\$500,000.00) to fund a permanent Capital Repair and Replacement Endowment for management of the Woods Park Indoor Tennis Facility ("Endowment Fund") to ensure capital repairs, replacements, and maintenance of the Indoor Tennis Facility. In addition, FOWT shall direct its annual facility use fees up to Twenty Thousand Dollars (\$20,000.00) per year from the TF to CITY for deposit with the Parks Foundation in the Endowment Fund, for a total of One Hundred Thousand Dollars (\$100,000.00) over the five (5) year period beginning on March 31, 2017 to complete funding of the endowment pursuant to the agreement between the Parks Foundation and City approved by Resolution No. A-89718. The Parks Foundation shall appropriately manage the Endowment Fund to make it available for future costs. The Endowment Fund shall be operated by the Parks Foundation at all times in a manner which will make said fund tax-exempt and the donations to it deductible from taxable income to the extent allowed by the provisions of the Internal Revenue Code and other applicable legislation and regulations, as amended. The Parks Foundation will provide the terms of the Endowment Fund and a Fund Statement for CITY review. The Mayor of CITY shall approve the Fund Statement, including the purpose and criteria for use. FOWT and CITY agree to only use the Endowment Fund according to stated purposes and restrictions in this Agreement and in the Fund Statement.

17. NO JOINT VENTURE; TAX EXEMPT STATUS. Except as otherwise provided herein, FOWT has sole and exclusive charge and control of the manner and means of operating the Tennis Center. Nothing in this Operating Agreement shall be interpreted as creating a partnership, joint venture or relationship of principal and agent between the parties. The parties agree that each of them is acting on its own behalf and not as an employee, joint venturer or partner of the other. Each party is interested only in the results obtained from this Operating Agreement, and each party shall be in exclusive charge and control of its own performance according to its own means and methods. Neither party shall be deemed an agent or representative of the other, and neither party has permission or authority to bind or commit the other party to any agreements or other obligations. It is expressly understood that neither FOWT nor any of its staff are employees of CITY, and thus they are not entitled to any CITY benefits including, but not limited to, overtime, retirement benefits, workers' compensation, sick leave, or injury leave. FOWT represents that it is a nonprofit corporation in good standing under Nebraska law and shall provide the CITY with a copy of its IRS 501(c)(4) designation letter upon request. FOWT covenants to remain a nonprofit corporation in good standing under Nebraska law and a tax-exempt organization under IRS Section 501(c)(3) or 501(c)(4) for so long as this Operating Agreement remains in force. CITY shall designate a representative to serve as an ex-officio board member with FOWT.

18. INTANGIBLE RIGHTS. Without exception, FOWT shall obtain and pay for any and all royalties or costs arising from patents, trademarks, copyrights, and other similar

intangible rights in any way involved with or related to FOWT's operation of the Tennis Center. To the extent allowed by law, FOWT shall defend, indemnify, protect and hold harmless CITY, its officers, employees, and agents against any and all claims for infringement of any patent, copyright, trademark, or other intangible related to operation or use of such intangible rights.

19. INDEMNIFICATION. To the fullest extent permitted by law, FOWT shall indemnify, defend and hold harmless CITY, its officers, agents and employees from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of this Operating Agreement, that results in any claim for damage whatsoever, including without limitation, any bodily injury, sickness, disease, death, or any injury to or destruction of tangible or intangible property, including any loss of use resulting therefrom that is caused in whole or in part by the intentional or negligent act or omission of FOWT, or anyone for whose acts any of them may be liable. This section will not require FOWT to indemnify or hold harmless CITY for any losses, claims, damages, and expenses arising out of or resulting from the sole negligence of CITY. CITY does not waive its governmental immunity by entering into this Operating Agreement and fully retains all immunities and defenses provided by law. This section survives any termination of this Operating Agreement.

20. INSURANCE.

A. FOWT shall maintain General Liability Insurance at its own expense during the life of this Operating Agreement, naming and protecting FOWT and CITY of Lincoln, its officials, employees and volunteers as insured, against claims for damages resulting from (a) all acts or omissions, (b) bodily injury, including wrongful death, (c) personal injury liability, and (d) property damage which may arise from operations under this Operating Agreement whether such operations by FOWT and FOWT's employees, or those directly or indirectly employed by Service Provider. The minimum acceptable limits of liability to be provided by such insurance for the first ten (10) years of the Operating Agreement shall be as follows:

1. All Acts or Omissions - \$1,000,000 each Occurrence; \$2,000,000 Aggregate; and
2. Bodily Injury/Property Damage - \$1,000,000 each Occurrence; \$2,000,000 Aggregate; and
3. Personal Injury Damage - \$1,000,000 each Occurrence; and
4. Contractual Liability - \$1,000,000 each Occurrence; and
5. Products Liability and Completed Operations - \$1,000,000 each Occurrence; and
6. Medical Expenses (any one person) - \$10,000;
7. Fire Damage (any one fire) - \$100,000.

B. The following shall be provided and attached to this Operating Agreement by FOWT:

1. A Certificate of Insurance for its General Liability Insurance. The City of Lincoln shall be specifically named as an additional insured on the General Liability Insurance.

2. Proof of Workers' Compensation Insurance, where appropriate.

C. FOWT is required to provide CITY with thirty (30) days' notice of cancellation, non-renewal or any material reduction of insurance as required by this Operating Agreement.

D. City shall provide property insurance on the Indoor Tennis Facility insuring for all risks of direct physical loss commonly insured against and name FOWT as an additional insured. The proceeds must be disbursed for the repair or restoration of the damaged property. FOWT shall insure for any loss of its personal property.

E. FOWT and CITY shall meet and confer every five (5) years from the effective date of this Operating Agreement regarding insurance limits to update them to current standards used by CITY for leases, which shall also conform to those standards used in the industry for similar sports facilities, subject to CITY's final discretion. FOWT shall then increase its insurance limits to those standard limits used by the CITY as provided by CITY to FOWT in writing.

21. FINANCIAL RECORDS AND AUDIT. FOWT shall maintain accurate accounting records using generally accepted accounting practices and principles. FOWT shall establish internal financial control policies and practices which are in accordance with generally accepted standards. FOWT shall annually, on or before March 31st, file with the Finance Director and the Director of Parks and Recreation a financial statement of the operations of the Tennis Center which shall include statements of all receipts, expenditures, and cash on hand, together with a general report on the operation of the Tennis Center, including any needs for future capital expenditures identified by FOWT.

FOWT shall be subject to audit per Chapter 4.66 of the Lincoln Municipal Code and shall make available to a contract auditor copies of all financial and performance related records and materials germane to this Operating Agreement, as allowed by law. The Finance Director and the Director of Parks and Recreation or their authorized representatives shall have unlimited access to all books and records of FOWT relating to the Tennis Center and the right to audit and inspect the same, during the term of this Operating Agreement and for a period of one (1) year thereafter.

22. ENTRY AND INSPECTION. FOWT hereby further covenants and agrees with CITY that CITY shall be permitted to enter upon the Tennis Center at all reasonable times to examine the condition of the same.

23. FAIR EMPLOYMENT; FAIR LABOR STANDARDS. FOWT shall not discriminate against any employee (or applicant for employment) with respect to compensation, terms, advancement potential, conditions, or privileges of employment, because of such person's race, color, religion, sex, disability, national origin, ancestry, age, or marital status pursuant to the requirements of Lincoln Municipal Code Chapter 11.08, and Neb. Rev. Stat. § 48-1122, as amended. FOWT shall maintain Fair Labor Standards in the performance of this Operating Agreement, as required by Chapter 73, Nebraska Revised Statutes, as amended.

24. AMERICANS WITH DISABILITIES ACT (ADA) AND OTHER FEDERAL LAWS. FOWT shall comply with the Americans With Disabilities Act, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act, all as may be amended, and as required by LWCF. FOWT shall take all reasonable steps to provide services for individuals with disabilities as required by the Act. FOWT shall defend, indemnify, protect and hold harmless CITY and all the officers, employees, and agents of CITY against any and all claims, demands, losses, actions or causes of action of whatsoever kind, arising or resulting from FOWT's failure to comply with and fulfill the requirements of the ADA, except for the City Events not managed by FOWT. CITY shall defend, indemnify, protect and hold harmless FOWT and all officers, employees, and agents of FOWT against any and all claims, demands, losses,

actions or causes of action of whatsoever kind, arising or resulting from the CITY's failure to comply with and fulfill the requirements of the ADA for City Events.

25. DEFAULT AND WAIVER. In the event either party fails to comply with any of the material terms herein, then the other party may declare a default if such failure continues for thirty (30) days after the non-complying party receives written notice specifying the nature of the default; provided, however, in the event such failure cannot, in the exercise of reasonable diligence, reasonably be cured within such thirty (30) day period, such failure shall not be considered a default, provided the non-complying party commences the cure within the thirty (30) day period and continues to exercise reasonable diligence to complete the cure. If any default under this Operating Agreement shall occur and the defaulting party fails to cure the same within the time period provided herein, the other party may seek any remedy at law or in equity without notice or demand, including specific performance. No delay in exercising remedies or custom or practice of the parties which varies from the terms of this Operating Agreement shall be a waiver of any party's right to demand exact compliance with the terms herein. Any waiver by any party of a default of any other party of this Operating Agreement shall not affect or impair any right arising from any subsequent default. It is hereby agreed that time is of the essence, and all provisions herein relating thereto shall be strictly construed. No right or remedy given in this Operating Agreement to CITY or FOWT is intended to be exclusive of any other right or remedy hereof provided by law. In the event the Operating Agreement expires or is terminated, FOWT shall peacefully surrender possession of the Tennis Center in good condition and repair to CITY.

26. INTEGRATION AND AMENDMENT. This Operating Agreement represents the entire agreement between the parties and all prior negotiations and representations are hereby expressly excluded. No modification of this Operating Agreement shall be effective unless it is in writing and is signed by FOWT and CITY or their authorized representatives. CITY's authorized representatives shall consist solely of the Mayor. No other person shall be authorized to make any modification to this Operating Agreement or any of its terms on behalf of CITY, which changes may be made by Executive Order.

27. ASSIGNMENT OR DELEGATION. This Operating Agreement, or any part hereof, including the obligation to perform services hereunder shall not be assigned by FOWT directly or as the result of any merger, consolidation, sale, transfer of assets, or otherwise to any other person, firm or corporation without the express written consent of the CITY nor shall any of FOWT's duties hereunder be delegated without such express written consent. Any such assignment shall not terminate the liability of the assignor to perform, unless a specific release in writing is given and signed by the other party to this Operating Agreement. No assignment shall be valid unless the assignor gives notice to CITY of the assignment and of the name and address of the assignee and a duplicate original of the instrument of assignment. No assignment shall be valid unless the assignee assumes all of FOWT's obligations under this Operating Agreement.

28. E-VERIFY. In accordance with Neb. Rev. Stat. §§ 4-108 through 4-114, FOWT agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C.

§ 1324a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. FOWT shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C. 1324b. FOWT shall require any subcontractor to comply with the provisions of this section.

29. SEVERABILITY. If any non-economic mutual term or provision of this Operating Agreement or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Operating Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of this Operating Agreement shall be valid and enforced to the fullest extent permitted by law.

30. FURTHER ASSURANCES. Each undersigned party will, except as otherwise provided herein, whenever it shall be necessary to do so by the other, promptly execute, acknowledge, and deliver, or cause to be executed, acknowledged, or delivered, documents as may be necessary or proper to effectuate the covenants and agreements herein provided. Each of the undersigned parties shall cooperate in good faith with the other.

31. INTERPRETATIONS. Any uncertainty or ambiguity existing herein shall not be interpreted against either party because such party prepared any portion of this Operating Agreement, but shall be interpreted according to the application of rules of interpretation of contracts generally.

32. CONSTRUCTION. Whenever used herein including acknowledgments, the singular shall be construed to include the plural, the plural the singular, and the use of any gender shall be construed to include and be applicable to all genders as the context shall warrant.

33. ENTIRE AGREEMENT. This Operating Agreement contains the entire agreement of the parties relating to the transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, warranties and statements, oral or written, are merged herein. This Operating Agreement cannot be modified or altered unless reduced to writing and consented to by all the undersigned parties.

34. NOTICE AND DEMANDS. Notice, demand, or other communication mandated by this Operating Agreement by either party to the other shall be sufficiently given or delivered if it is sent by registered or certified mail, postage prepaid, return receipt requested, or delivered personally at the addresses stated here. Said notices will be sent to CITY as follows: CITY of Lincoln, Attn: City Attorney, 555 S. 10th Street, Suite 300, Lincoln, NE 68508 or at such other address as CITY may hereafter furnish by written notice to FOWT. Said notices will be sent to FOWT as follows: Friends of Woods Tennis, 401 S. 33rd Street, Lincoln, Nebraska, 68510, or at such other address as FOWT may hereafter furnish by written notice to CITY.

35. EXECUTION IN COUNTERPARTS. This Operating Agreement may be executed in two or more counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

36. GOVERNING LAW. All aspects of this Operating Agreement shall be governed by the laws of the State of Nebraska.

37. SUCCESSORS AND ASSIGNS. This Operating Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legatees, devisees, personal representatives, successors and assigns. The undersigned individuals do hereby agree and represent that he or she is legally capable to sign this Operating Agreement and to lawfully bind their respective parties to this Operating Agreement.

ATTEST:

CITY OF LINCOLN, NEBRASKA ("CITY"),
A Municipal Corporation

City Clerk

Chris Beutler, Mayor

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__
by Chris Beutler, the Mayor of City of Lincoln, on behalf of CITY.

(S E A L)

Notary Public

FRIENDS OF WOODS TENNIS, INC.
("FOWT"),
A Nebraska nonprofit corporation

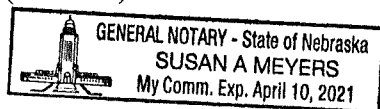
Carmen Hill Grant

President

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

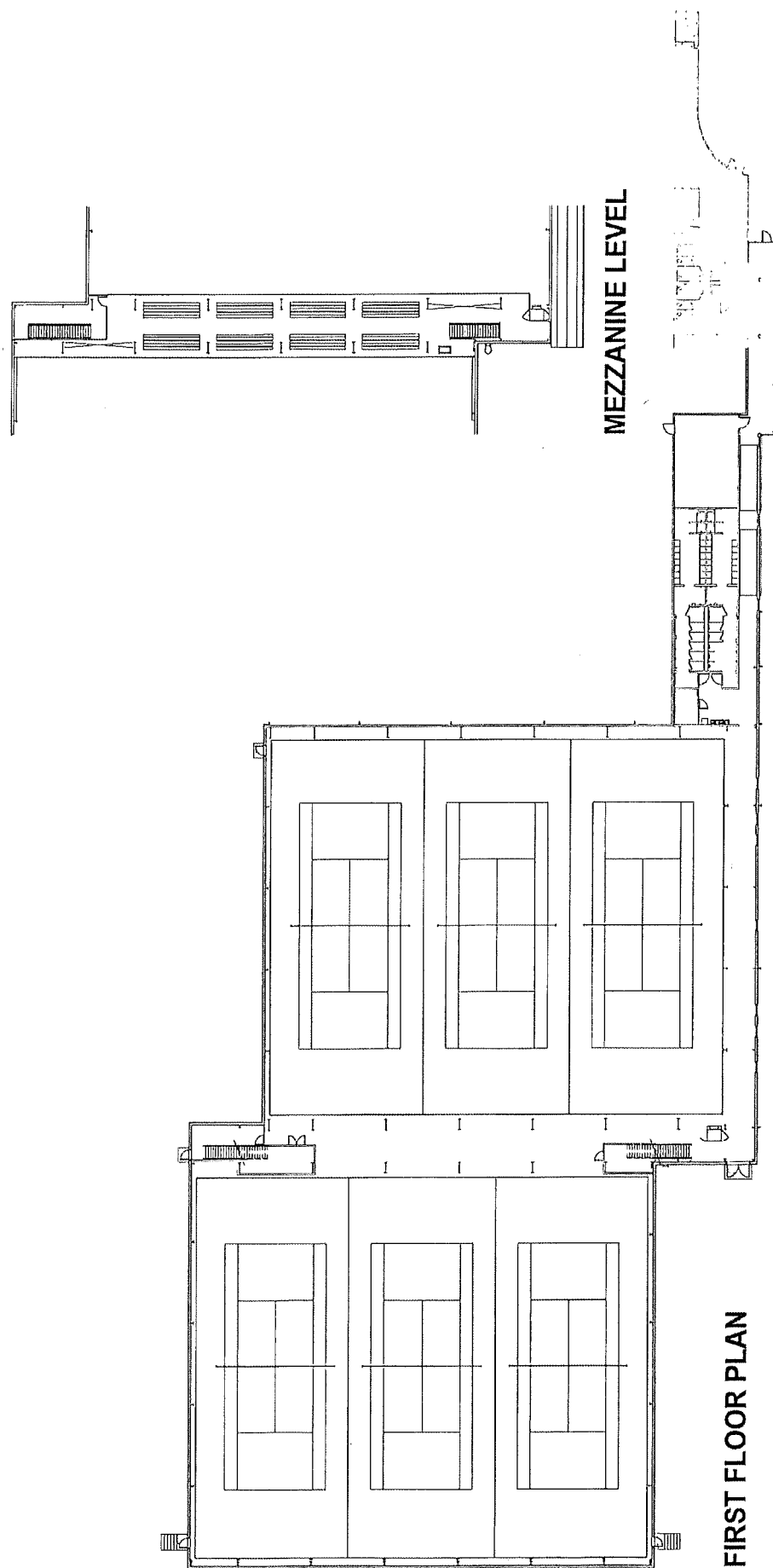
The foregoing instrument was acknowledged by me this 25th day of December, 2017
by Carmen Hill Grant, President of the Friends of Woods Tennis, Inc. on behalf of FOWT.

(S E A L)



Susan A Meyers

Notary Public



INDOOR TENNIS FACILITY - EXHIBIT A

WOODS PARK MASTER PLAN

Proposed Revision
November 2016

Background:
The land for Woods Park was gifted to the City of Lincoln by the Lincoln Chapter of the Boy Scouts of America in 1954. The land was intended for use as a "scout camp" and was to be used for the purpose of the "Boy Scout" program. The land was to be used for the purpose of the "Boy Scout" program and was to be used for the purpose of the "Boy Scout" program. The land was to be used for the purpose of the "Boy Scout" program and was to be used for the purpose of the "Boy Scout" program.

Goals

1. The City of Lincoln is committed to providing a high-quality park for the community. The City of Lincoln is committed to providing a high-quality park for the community. The City of Lincoln is committed to providing a high-quality park for the community.

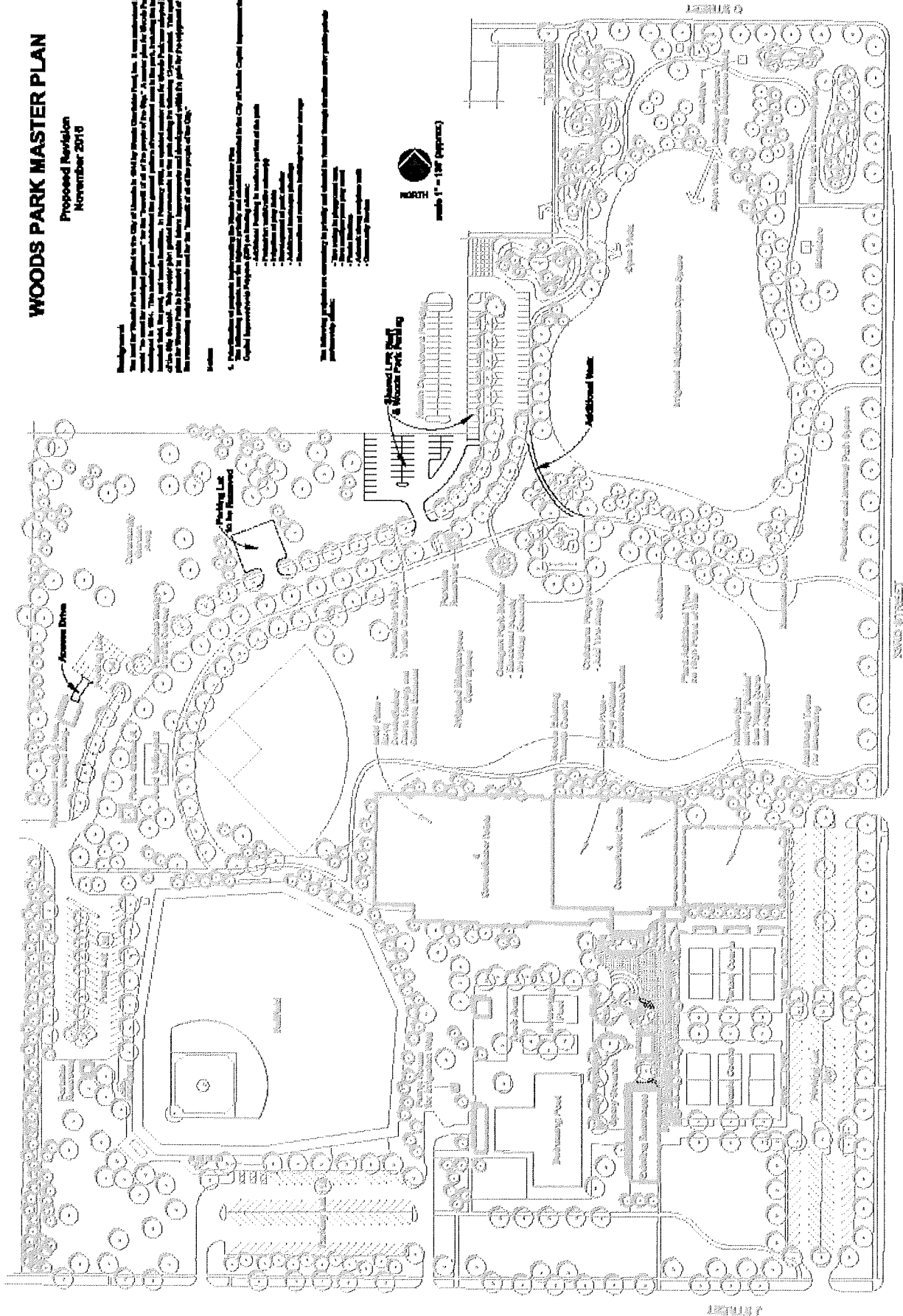
- Provide a high-quality park for the community
- Provide a high-quality park for the community
- Provide a high-quality park for the community
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The following guidelines are intended to provide a framework for the development of the park. The following guidelines are intended to provide a framework for the development of the park. The following guidelines are intended to provide a framework for the development of the park.

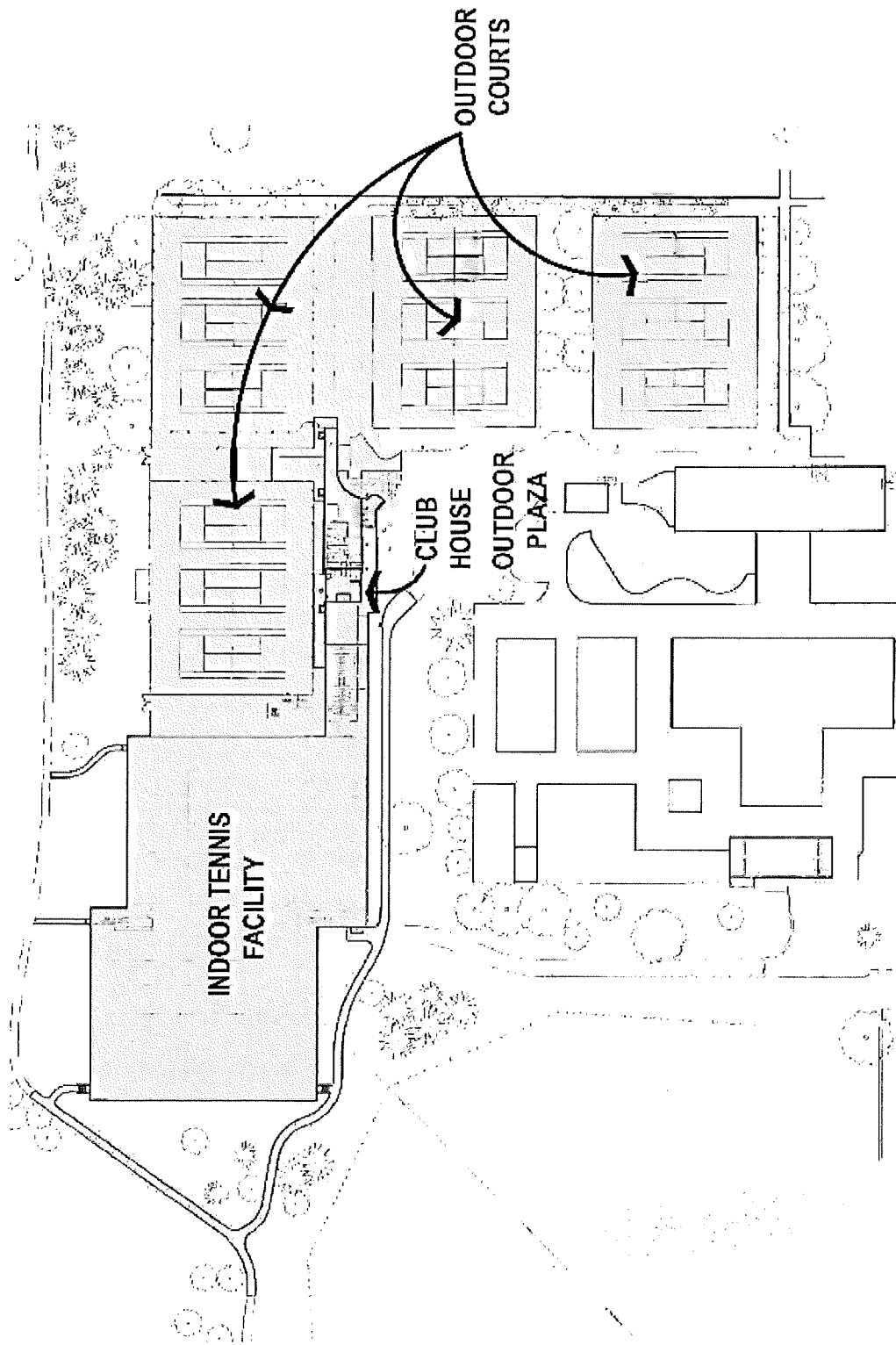
- Provide a high-quality park for the community
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- Provide a high-quality park for the community
- Provide a high-quality park for the community



Scale 1" = 100' (approx.)



WOODS PARK MASTER PLAN APPROVED DECEMBER 12, 2016 - EXHIBIT B



WOODS TENNIS CENTER - EXHIBIT C

